

AO 91 (Rev. 11/11) Criminal Complaint

Officer:

AUSA: Barrington Wilkins

Hector Rivera

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UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

Gerardo GARCIA-HERNANDEZ

Alias: Gerardo HERNANDEZ-GARCIA

Ricardo HERNANDEZ-GARCIA

Case: 2:20-mj-30230

Case No. Assigned To : Unassigned

Assign. Date : 7/9/2020

Description: CMP USA v. GARCIA
-HERNANDEZ (SO)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 07, 2020 in the county of Oakland in the
Eastern District of Michigan, the defendant(s) violated:*Code Section*

Title 8, United States Code, Section 1326(a)

Offense Description

Unlawful Re-entry after Removal from the United States

This criminal complaint is based on these facts:

On or about July 07, 2020, in the Eastern District of Michigan, Southern Division, Gerardo GARCIA-HERNANDEZ, an alien from Mexico was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about March 15, 2015, at or near Hidalgo, TX and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326(a).

☒ Continued on the attached sheet.Sworn to before me and signed in my presence
and/or by reliable electronic means.Date: July 9, 2020City and state: Detroit, MI
Complainant's signatureHector Rivera, Deportation Officer
Printed name and title
Judge's signatureR. Steven Whalen, United States Magistrate Judge
Printed name and title

AFFIDAVIT

I, Hector Rivera, declare the following under penalty of perjury:

1. I am a Deportation Officer employed with Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security, having served with ICE since February 2007. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers and record checks of law enforcement databases. I have also reviewed the immigration records and system automated data relating to Gerardo GARCIA-HERNANDEZ, which reveal the following:
2. Gerardo GARCIA-HERNANDEZ also known as Gerardo HERNANDEZ-GARCIA or Ricardo HERNANDEZ-GARCIA is a forty-year-old citizen and a native of Mexico who last entered the United States on an unknown date, at an unknown place, without inspection by the U.S. Department of Homeland Security.
3. On December 15, 2004, the 50th Judicial District Court at Pontiac, Michigan convicted GARCIA-HERNANDEZ for the offense of Domestic Assault and Battery, in violation of local ordinance code 86.167 and sentenced to F/C/R in the amount of \$160.00.
4. On August 25, 2008, the 51st Judicial District Court at Waterford, Michigan convicted GARCIA-HERNANDEZ for the offense of Operating - License Suspended, Revoked, Denied/Allowing Suspended Person to Operate, in violation of MCL 257.9041C and sentenced to F/C/R in the amount of \$1060.00 or as an alternative 23 days in jail, and 6 months of probation.
5. On February 15, 2009, ICE encountered and served GARCIA-HERNANDEZ at or near Pontiac, Michigan with an -I-862 Notice to Appear. On July 08, 2011, an Immigration Judge in Detroit, Michigan granted GARCIA-HERNANDEZ a voluntary departure to Mexico. On July 19, 2011, GARCIA-HERNANDEZ voluntarily departed the United States to Mexico from the Detroit Metropolitan Airport on flight # DL 557.

6. On February 20, 2011, the 50th Judicial District Court at Pontiac, Michigan convicted GARCIA-HERNANDEZ for the offenses of Operating - License Suspended/Revoked/Denied, in violation of local ordinance 5.62A and sentenced to 5 days in jail and assessed F/C/R in the amount of \$45.00.
7. On February 28, 2011, the 50th Judicial District Court at Pontiac, Michigan convicted GARCIA-HERNANDEZ for the offenses of Operating - License Suspended/Revoked/Denied, in violation of local ordinance 5.62A and sentenced to 30 days in jail and assessed F/C/R in the amount of \$45.00.
8. On March 23, 2011, the 48th Judicial District Court at Bloomfield Hills, Michigan convicted GARCIA-HERNANDEZ for the offenses of Operating - License Suspended/Revoked/Denied, in violation of M.C.L. code 257.9041B sentenced to 93 days in jail and assessed F/C/R in the amount of \$45.00.
9. On October 16, 2014, ICE encountered and served GARCIA-HERNANDEZ at or near Pontiac, Michigan with an -I-862 Notice to Appear. On November 04, 2014, an Immigration Judge in Detroit, Michigan ordered GARCIA-HERNANDEZ remove to Mexico. On November 12, 2014, ICE removed GARCIA-HERNANDEZ to Mexico through Laredo, Texas.
10. On March 12, 2015, the United States Border Patrol encountered and served GARCIA-HERNANDEZ at or near Roma, Texas with an -I-871 Notice of Intent/Decision to Reinstate Prior Order. On March 15, 2015, ICE removed GARCIA-HERNANDEZ to Mexico through Hidalgo, Texas.
11. On July 05, 2020, the Pacific Enforcement Response Center placed a detainer on a previous removed alien, Gerardo GARCIA-HERNANDEZ being housed at the Oakland County Jail pending assault charges. On July 06, 2020, the Detroit ICE Duty Officer received an afterhours notification for GARCIA-HERNANDEZ, ICE transported and housed GARCIA-HERNANDEZ at the St. Clair County Jail. On July 07, 2020, a Detroit ICE CAP Officer transported GARCIA-HERNANDEZ to Detroit ICE field office and served him with a Notice of Intent/ Decision to Reinstate prior order form. ICE searched his fingerprints in the ICE/FBI systems resulting in a positive match for Gerardo GARCIA-HERNANDEZ, DOB: XXXX1980, AXXX XXX 191 a previously removed alien.
12. The aforementioned arrest and subsequent detention was an administrative, non-criminal action made pursuant to the authority found in sections 1357,

1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain any alien entering or attempting to enter the United States, or any alien present in the United States, who is reasonably believed to be in violation of any law or regulation regulating the admission, exclusion, expulsion, or removal of aliens.

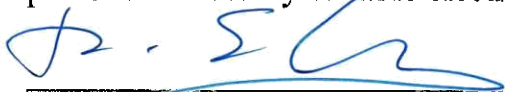
13. On July 07, 2020, ICE officers reviewed immigration file records and Department of Homeland Security electronic records, indicating that Gerardo GARCIA-HERNANDEZ, AXXX XXX 191, did not obtain the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States.
14. Based on the above information, I believe there is probable cause to conclude that Gerardo GARCIA-HERNANDEZ, is an alien who was found in or reentered the United States after deportation or removal, without the express permission from the Attorney General of the United States or from the Secretary of the Department of Homeland Security in violation of Title 8, United States Code, Section 1326(a).



Hector Rivera, Deportation Officer
Immigration and Customs Enforcement

Date:

Sworn to before me and signed in my
presence and/or by reliable electronic means.



R. Steven Whalen
United States Magistrate Judge

Date: July 9, 2020